

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	
	:	CONSENT PRELIMINARY ORDER
- v. -	:	OF FORFEITURE/
	:	<u>MONEY JUDGMENT</u>
STUART SMITH,	:	
	:	S6 19 Cr. 833 (SHS)
Defendant.	:	
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WHEREAS, on or about November 19, 2021, STUART SMITH (the “Defendant”), was charged in a Superseding Information, S6 19 Cr. 833 (SHS) (the “Information”), with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count One); conspiracy to commit money laundering, in violation of Title 18, United States Code, Section 1956(h) (Count Two); and obstruction of justice, in violation of Title 18, United States Code, Section 1512(c)(2) (Count Three);

WHEREAS, the Information included a forfeiture allegation as to Count One of the Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 982(a)(8), of any and all real or personal property used or intended to be used to commit, to facilitate, or to promote the commission of the offense charged in Count One of the Information; and any and all real or personal property constituting, derived from, or traceable to the gross proceeds that the Defendant obtained, directly or indirectly, as a result of the offense charged in Count One of the Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of offense charged in Count One of the Information;

WHEREAS, on or about November 19, 2021, the Defendant pled guilty to Counts One, Two, and Three of the Information, pursuant to a plea agreement with the Government,

wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Information and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(8), of any and all real or personal property used or intended to be used to commit, to facilitate, or to promote the commission of the offense charged in Count One of the Information; and any and all real or personal property constituting, derived from, or traceable to the gross proceeds that the Defendant obtained, directly or indirectly, as a result of the offense charged in Count One of the Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of offense charged in Count One of the Information;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$6,500,000 in United States currency representing the amount of proceeds traceable the offense charged in Count One of the Information, for which the Defendant is jointly and severally liable with co-defendant Jennifer Shah, and the forfeiture money judgment entered against Jennifer Shah in this case; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Information the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney Robert B. Sobelman, of counsel, and the Defendant and his counsel, D. Gilbert Athay, Esq., that:

1. As a result of the offense charged in Count One of the Information to which the Defendant pled guilty, a money judgment in the amount of \$6,500,000 in United States

currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Information that the Defendant personally obtained, for which the Defendant is jointly and severally liable with the Jennifer Shah and the forfeiture money judgment entered against Jennifer Shah in this case, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Customs and Border Protection, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Illicit Finance and Money Laundering Unit, 26 Federal Plaza, 38<sup>th</sup> Floor, New York, New York 10278 and shall indicate the Defendant's name and case number.

4. Upon entry of this Consent Preliminary Order of Forfeiture/Money Judgment, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.


6. Pursuant to 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorize to conduct any discovery needed to identity, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.


AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

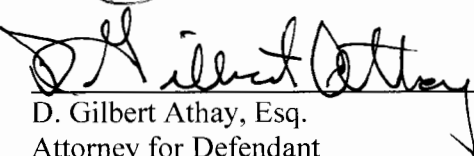
By:   
Robert B. Sobelman  
Assistant United States Attorney  
26 Federal Plaza  
New York, NY 10278  
(212) 637-2616

12/10/24  
DATE

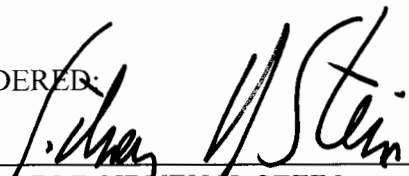
STUART SMITH

By:   
Stuart Smith

12/18/24  
DATE

By:   
D. Gilbert Athay, Esq.  
Attorney for Defendant  
43 East 400<sup>th</sup> Street  
Salt Lake City, Utah 84111

12/10/24  
DATE

SO ORDERED:  
  
HONORABLE SIDNEY H. STEIN  
UNITED STATES DISTRICT JUDGE

12/10/24  
DATE